

**REMARKS****I. General**

The issues raised in the Office Action mailed may 24, 2004 in the instant application are as follows:

- The claim of priority is objected to by the present Office Action;
- Claim 6 is objected to for informalities;
- Claims 1-7 stand rejected under 35 U.S.C. 102(b) as anticipated by McIntyre, U.S. Pat. No. 4,097,012 (hereinafter *McIntyre*); and
- Claims 1-7 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

Applicant hereby traverses the outstanding rejections of the claims, and requests reconsideration and withdrawal of the outstanding rejections in light of the amendments and remarks contained herein. Claims 1 and 6 are amended above to correct typographical errors and for purposes of clarification. No new matter has been added by these amendments. The rigid fastener element of claim 1 has been made singular, in that single fastener 302 can be used to comprise the rigid fastener, as one of ordinary skill in the art will appreciate upon review of, and as shown throughout, the drawings. In the seventh line of independent claim 1 the erroneous reference to "the first legs" has been replaced with "the second legs." Support for this amendment is present at least in the drawings. Claim 6 has been amended to clarify that the ear(s) may be a part of either leg of the brackets. The illustrated ears are shown as a part of the first leg of one of the brackets in the drawings. The claims have been amended only for cosmetic purposes, resolving minor informalities, typographical errors and for clarification, and not for a substantial reason related to patentability. Claims 1-7 are currently pending in this application.

**II. Objection to Claim of Priority**

The present Office Action objects to the claim of priority. The Office Action indicates that this application was "filed under the former 37 CFR 1.60." However, the

present application was filed as a divisional application under 37 CFR 1.53(b) and a new specification was filed (contrary to the practice under former 37 CFR 1.60).

The Office Action also indicates that the application “lacks the necessary reference to the prior application.” However, the first paragraph of the present application, as filed, clearly indicates that “This application is a Divisional of co-pending and commonly assigned U.S. Patent Application Serial No. 10/080,168 entitled “SYSTEM AND METHOD FOR BI-DIRECTIONAL ACCESS TO A FASTENING DEVICE”, filed February 21, 2002.”

Finally, the Office Action indicates that “the current status of all nonprovisional applications referenced has not been updated” and that “appropriate correction is required.” The first paragraph of the specification has been amended above to provide available bibliographic information for the parent and cited related applications.

### **III. Claim Objection**

Claim 6 is objected to for informalities. In response, claim 6 has been amended to delete the word “equipment.”

### **IV. Rejection(s) under 35 U.S.C. §102(e)**

Claims 1-7 are rejected under 35 U.S.C. 102(b) as anticipated by *McIntyre*. Applicant respectfully traverses this rejection.

#### **The recited reference does not teach all claimed limitations.**

It is well settled that to anticipate a claim, the reference must teach every element of the claim, see M.P.E.P. §2131. Moreover, in order for a reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he elements must be arranged as required by the claim,” see M.P.E.P. § 2131, citing *In re Bond*, 15 US.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim,” see M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). Applicant respectfully asserts that the rejection does not satisfy at least these requirements.

Independent claim 1, as amended, recites “a rigid fastener for removably joining together the first legs of said “L” brackets” (emphasis added) and “rotatable fasteners for rotatably fastening the second leg of one of said “L” brackets to said structure and for rotatably fastening the second leg of the other “L” bracket to said support” (emphasis added). *McIntyre* does not disclose at least these limitations.

As shown in FIGURE 1 of *McIntyre*, neither of the first legs (32) or the second legs (31) of *McIntyre* are joined together as recited by claim 1. Conversely, each of legs 32 and 31 are shown joined to other brackets. Both of first legs 32 are shown connected to the item labeled as “B” by the Office Action, while both of the second legs 31 of *McIntyre* are fastened to support member 20. Thus, *McIntyre* clearly fails to show rigid fasteners joining together the first legs of “L” brackets, as originally claimed, much less “a rigid fastener for removably joining together the first legs of said “L” brackets” as recited by claim 1, as amended.

FIGURE 1 of *McIntyre* also fails to show rotatably fastening one of the second legs (31) to a structure while the second leg of the other bracket is rotatably fastening to a support. Both of the first legs of *McIntyre* are rigidly attached to the single item labeled as “B” by the Office Action, while both of the second legs 31 of *McIntyre* are rotatably fastened to a single support, support member 20. Thus, Applicant respectfully contends that the Examiner’s recitation of *McIntyre*’s first support member 20 as the support recited in claim 1, with one upstanding leg 22 of the same support member 20 recited as the structure recited in claim 1, is misplaced. Claim 1, clearly recites that rotatable fasteners rotatably fasten the second leg of one of said “L” brackets to a structure, and that the rotatable fasteners rotatably fasten the second leg of the other “L” bracket to a support. The independent recitation of a structure mounted to a support in the preamble of claim 1 inherently dictates that this structure and this support are separate elements, particularly as an item cannot be mounted to itself. For at least the above reasons, *McIntyre* fails to teach “rotatable fasteners for rotatably fastening the second leg of one of said “L” brackets to said structure and for rotatably fastening the second leg of the other “L” bracket to said support.”

Therefore, Applicant respectfully asserts that for at least the above reasons independent claim 1 is patentable over the 35 U.S.C. §102 rejection of record.

Claims 2 through 7 each ultimately depend from base independent claim 1, and thus inherits all limitations of claim 1. Therefore, for at least the reasons advanced above in responding to the rejection of claim 1, each of claims 2 through 7 sets forth features and limitations not disclosed by *McIntyre*. Thus, Applicant respectfully asserts that at least for the above reasons claims 2-7 are patentable over the 35 U.S.C. §102 rejection of record.

#### V. Double Patenting

Claims 1-7 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of related co-owned pending U.S. Patent Application Serial No. 10/751,233. However, Applicant wishes to point out that the present application is a divisional application, and application Serial No. 10/751,233 is a continuation, of common parent patent application Serial No. 10/080,168, which has issued as U.S. Pat. No. 6,672,787. Parent application Serial No. 10/080,168 was the subject of a Restriction Requirement dated December 31, 2002, which required election between claim groups I (claims 1-6), II (claims 7-10), III (claims 13-16) and IV (claims 11-12) of application Serial No. 10/080,168. The Restriction Requirement indicated that the claims of each group were distinct. An election, without transverse, was made to prosecute the claims of group I, claims 1-6 in application Serial No. 10/080,168. In the course of prosecution of application Serial No. 10/080,168 dependent claim 5 was indicated as allowable and claim 5 was amended to place it in independent form. The remaining claims were made the subject of continuation application Serial No. 10/751,233. Independent claim 1 of continuation application Serial No. 10/751,233 corresponds to and contains the elements and limitations of independent claim 1 (from Group I, as defined by the Examiner) of parent application Serial No. 10/080,168. Independent claim 1 of the present divisional application corresponds to independent claim 7 (of Group II, as defined by the Examiner) of parent application Serial No. 10/080,168. Claim 1 of the present divisional application and claim 1 of continuation application Serial No. 10/751,233 are the only independent claims in each of these applications. Therefore, each of the dependent claims of each of the applications contain all the limitations of their respective base independent claim 1. Whereas, in accordance with the earlier issued restriction requirement in parent application Serial No. 10/080,168, independent claims 1 and 7 of parent application Serial No. 10/080,168 are patentably distinct, the present claims are patentably distinct from the claims of continuation application Serial No. 10/751,233.

For at least the above recited reasons, Applicant respectfully asserts that the obviousness-type double patenting rejection is improper, and that the obviousness-type double patenting rejection of claims 1-7 should be withdrawn.

**VI. Conclusion**

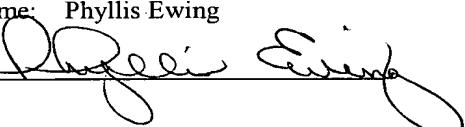
In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 08-20250 , under Order No. 10017979-3, from which the undersigned is authorized to draw. The Examiner is respectfully invited to call the below listed attorney if he can be of assistance in expediting prosecution of the present application.

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Label No. EV 482737382US in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313.

Date of Deposit: August 13, 2004

Typed Name: Phyllis Ewing

Signature: 

Respectfully submitted,

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